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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Appellant:	ATAMANIOUK	Examiner:	Won, M.
Serial No.:	10/735,586	Group Art Unit:	2155
Filed:	December 12, 2003	Docket No.:	NSN.022.A1
Title:	SYSTEM AND METHOD FOR MULTIPART RESPONSE OPTIMIZATION		

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 19, 2008.

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APPEAL BRIEF

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Sir:

This Appeal Brief is submitted pursuant to 37 C.F.R. § 41.37 for the above-referenced patent application consistent with the Notice of Appeal filed on November 19, 2007 and received by the U.S. Patent Office on November 23, 2007.

Please charge deposit account 50-3581 (NSN.022.A1) in the amount of $510.00 for filing this brief in support of an appeal as set forth in 37 C.F.R. § 41.20(b)(2). If necessary, authority is given to charge/credit deposit account 50-3581 (NOKM.032PA) additional fees/overages in support of this filing.

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I. REAL PARTY IN INTEREST

The real party in interest is the assignee, Nokia Corporation.

II. RELATED APPEALS AND INTERFERENCES

Appellants are unaware of any related appeals, interferences or judicial proceedings that would have a bearing on the Board's decision in the instant appeal.

III. STATUS OF CLAIMS

Claims 1-15 are pending, each of which is presented for appeal. Each of the pending Claims 1-15 has been finally rejected by the Examiner's action dated August 27, 2007 and maintained in an Advisory Action dated October 30, 2007, from which Appellant appeals.

The pending Claims 1-15 under appeal may be found in the attached Claims Appendix.

IV. STATUS OF AMENDMENTS

Claims 13 and 15 were amended in an after-final Office Action Response dated October 16, 2007 to comply with a requirement of form expressly set forth in the Office Action dated August 27, 2007 regarding a rejection under 35 U.S.C § 101. The amendments were entered by the Examiner in the Advisory Action dated October 30, 2007. The amendments are reflected in the claims as they appear in the Claims Appendix.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention is generally directed to multipart response optimization in network content transactions.

One embodiment of the present invention is directed to a communication system. See, e.g., Claim 1, FIGS. 1-4; and the corresponding discussion in the instant Specification at page 9, lines 21-28 and page 10, lines 4-15. The system includes a client (e.g., 102, 116, 148) adapted to request (e.g., 202, 400) content from the communication system, the request for content including an indicator (e.g., 404) that a multipart response is desired for the client. A proxy (e.g., 146) coupled to receive the request for content and adapted to access the communication system for the requested content. A server (e.g., 140, 142) coupled to the proxy to provide the requested content, wherein the proxy is adapted to provide a single part response (e.g., 210, 300) to the client, the single part response including an indicator (e.g., 304) to signal that a subsequent multipart response (e.g., 220) that is related to the single part response will be sent to the client.

Another embodiment of the present invention is directed to a method. See, e.g., Claim 6, Figs. 1-5; and the corresponding discussion in the instant Specification at page 9, lines 21-28, page 10, lines 4-15, and page 11, lines 8-29. The method involves generating (e.g., 502) a first request (e.g., 202, 400) for content, the first request including a multipart response expectation indicator (e.g., 404) that indicates a client (e.g., 102, 116, 148) generating the first request is capable of receiving a response with multiple parts of content. A first response (e.g., 210, 300) to the first request for content is generated (e.g., 514). The first response includes a multipart response capability (e.g., 304, page 11, lines 21-26). A second request (e.g., 216) for content by the requestor is generated (e.g., 516) and a second response (e.g., 220) to the second request for content is generated (e.g., 518). The second response includes a format that is indicative of the multipart response capability indicator and includes particular multiple parts of content for the client associated with the second request for content (e.g., page 11, lines 26-29).

Another embodiment of the present invention is directed to a mobile terminal. See, e.g., Claim 11, Figs. 1-4, and 6; and the corresponding discussion in the instant

Specification at page 9, lines 21-28, page 10, lines 4-15, and page 11, lines 8-29, and page 12, line 14-page 13line 25. The mobile terminal (e.g., 102, 116, 600) includes a memory (e.g., 604) capable of storing at least a multipart header module (e.g., 626). A processor (e.g., 602) is coupled to the memory and configured by the multipart header module to generate content requests (e.g., 202, 400) having a multipart response expectation indicator (e.g., 404) that indicates the mobile terminal is capable of receiving a response with multiple parts of content. The terminal includes a transceiver (e.g., 618) configured to facilitate a content response exchange with a proxy (e.g., 146). The multipart header module is further configured to search the content response (e.g., 210, 300) for a multipart capability indicator (e.g., 304) and receive content (e.g., 220) that includes particular multiple parts of content in response to the existence of the multipart capability indicator in the content response (e.g., page 11, lines 26-29).

Another embodiment of the present invention is directed to a computer-readable storage medium. See, e.g., Claim 13, Figs. 1-4, and 6 and the corresponding discussion in the instant Specification at page 9, lines 21-28; page 10, lines 4-15; and page 11, lines 8-29, and page 12, line 14-page 13line 25. The computer readable medium (e.g., 604) has instructions (e.g., 626) stored thereon which are executable by a mobile terminal (e.g., 102, 116, 600) for requesting optimized multipart response handling in a network. The instructions cause the mobile terminal to supplying a multipart expectation indicator (e.g., 404) in a content request (e.g., 202, 400) that indicates the mobile terminal is capable of receiving a response with multiple parts of content. The instructions cause the mobile terminal to further receive a content response (e.g., 210, 300) to the content request and examine the content response for a multipart capability indication (e.g., 304). The instructions also cause the mobile terminal to preclude transmission of parallel content requests (e.g., page 11, lines 24-29) when the multipart capability indication exists within the content response. The instructions cause the mobile terminal to receive content (e.g., 220) that includes particular multiple parts of content in response to the existence of the multipart capability indicator (e.g., page 11, lines 26-29).

Another embodiment of the present invention is directed to a proxy. See, e.g., Claim 14, Figs. 1-4 and 7; and the corresponding discussion in the instant Specification at page 9, lines 21-28;page 10, lines 4-15; page 14, lines 20-29; and page 14, line 20-page 16 line 2. The proxy (e.g., 146, 700) includes means (e.g., 702, 704, 706, 708, 710) for receiving a first content request (e.g., 202, 400) and means (e.g., 702, 704, 706) for determining the existence of a multipart response expectation indicator (e.g., 404) in the first content request that indicates a client (e.g., 102, 116, 600) sending the first content request is capable of receiving a response with multiple parts of content. The proxy further includes means (e.g., 702, 704, 706) for generating a single part response (e.g., 210, 300) in response to the existence of the multipart response expectation indicator in the first content request, and means (e.g., 702, 704, 706, 708, 710) for sending a multipart response (e.g., 220) to the client after a second content request (e.g., 216) is received, the multipart response being related to the single part response.

Another embodiment of the present invention is directed to a computer-readable storage medium. See, e.g., Claim 15, Figs. 1-4 and 7; and the corresponding discussion in the instant Specification at page 9, lines 21-28;page 10, lines 4-15; page 14, lines 20-29; and page 14, line 20-page 16 line 2. The computer-readable storage medium (e.g., 704, 706, 716) having instructions stored thereon which are executable by a proxy (e.g., 146, 700) for performing steps that include receiving a first content request (e.g., 202, 400) from a client (e.g., 102, 116, 600), and determining the existence of a multipart response expectation indicator (e.g., 404) in the first content request that indicates the client is capable of receiving a response with multiple parts of content. The instructions are further executable by the proxy to generate a single part response (e.g., 210, 300) in response to the existence of the multipart response expectation indicator in the first content request, and send a multipart response (e.g., 220) to the client after a second content request (e.g., 216) is received, the multipart response being related to the single part response..

As required by 37 C.F.R. § 41.37(c)(1)(v), a concise explanation of the subject matter defined in each of the independent claims involved in the appeal is provided herein. Appellant notes that representative subject matter is identified for each of these claims;

however, the abundance of supporting subject matter in the application prohibits identifying all textual and diagrammatic references to each claimed recitation. Appellant thus submits that other application subject matter, which supports the claims but is not specifically identified above, may be found elsewhere in the application. Appellant further notes that this summary does not provide an exhaustive or exclusive view of the present subject matter, and Appellant refers to the appended claims and their legal equivalents for a complete statement of the invention.

V. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Claims 1-15 are rejected under 35 U.S.C. §102(e) as being anticipated by Colson et al. (U.S. Patent No. 6,708,217).

VII. ARGUMENT

Appellant maintains the traversal of the rejections under 35 U.S.C. § 102. In accordance with 37 C.F.R. § 41.37(c)(1)(vii) the grounds of rejection are discussed in detail below.

A. The rejection of Claims 1-15 under 35 U.S.C. §102(e) is improper because Colson *et al* does not expressly or inherently teach all of the limitations of Claims 1-15.

1. The rejection of Claims 1, 6, 11, and 13-15 under 35 U.S.C. §102(e) is improper because Colson *et al* does not expressly or inherently teach a content request that contains an indicator that a multipart response is desired.

Independent Claims 1-15 were rejected based on 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,708,217 to Colson *et al.* (hereinafter "Colson"). Independent Claims 1, 6, 11, 13-15 are first considered. These independent claims all describe a content request that contains an indicator that a multipart response is desired. For example, Claim 1 describes a client adapted to request content from the communication system, the request for content including an indicator that a multipart response is desired for the client. Claims 6, 11, and 13-15 recite similar features. Appellant respectfully asserts that Colson fails to expressly or inherently describe at least this aspect of the independent claims.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131, quoting Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the patent claim; i.e. every element of the claimed invention must be literally present, arranged as in the claim." MPEP § 2131, quoting Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Colson does not expressly or inherently teach every element of Claims 1, 6, 11, 13-15, and therefore fails to anticipate Claims 1, 6, 11, 13-15.

In the Final Office Action dated August 27, 2007 (hereinafter the "Office Action), column 4, lines 35-41 of Colson is relied upon to show a request for content including an indicator that a multipart response is desired for the client. Appellant respectfully disagrees. This excerpt of Colson is not describing a content request, but is describing sending "content registration messages to the demux controller." (Colson, col. 4, lines 36-38). Note that Colson is directed to "a technique whereby multi-modal document content can be received, demultiplexed, and distributed to one or more appropriate content renderers" by way of a network component called the demux controller (Wdemux). (Colson, col. 3, lines 52-55). The content renderers each have "different content rendering capabilities" (Colson, col. 7, lines 7-8) and thus, upon receipt of content with multiple types of content, the Wdemux needs a mechanism to determine "the content renderer(s) capable of rendering that content type." (Colson, col. 9, lines 5-6). The sending of registration messages as described in Colson column 4 is for purposes configuring the Wdemux content registry, and is not expressly or inherently used for requesting content (see also col. 10, lines 46-65).

In response to these arguments, the Examiner states in the Advisory Action dated October 30, 2007 that "the applicant(s) seem to assert that because Colson's 'content registration message' does not explicitly recite the term 'request' that somehow this message is not a request." (Advisory Action, page 2). This is not what was asserted by the Applicant. As argued above, Colson's content registration message is not a content request message because it is not used to request content. The registration message is used to register content capabilities before any content is requested. This is plainly seen in FIG. 5 of Colson. All of the registration messages shown are first being sent 510 to the demultiplexer process for registering content types. An HTTP request sent 520 only after all content types are registered is. Thus there is a clear distinction made in Colson between registration messages and request messages.

The Examiner further states that "Colson describes the purpose of the invention by explicitly teaching that one of the functionalities is to generate 'a document request from a first client'." (Advisory Action, page 2). Appellants do not dispute that Colson teaches a document request, at least because this is plainly shown in FIG. 5 cited above. In previous

Responses, Appellants have also enumerated other examples of requests described in Colson (e.g., "Web browser ...[generates] a request for a Web page using its URL and to send the request to a Web server," col. 1, lines 35-39; "document request may be generated as a HyperText Transport Protocol (HTTP) message," col. 4, lines 26-27; "all client HTTP requests will pass through the Wdemux on the outbound path to the server ... [or alternatively] the outgoing HTTP requests are sent directly to a Web server, with all incoming responses being routed through the Wdemux," col. 7, lines 24-29). What is not taught anywhere in Colson is a document request that includes an indicator that a multipart response is desired for the client. The Examiner relies solely upon Colson's registration of multipart capability with the Wdemux (e.g., Colson col. 4, lines 38-60) to show communicating multipart capability in a request, and has not demonstrated where Colson includes indications of multipart capability in content requests.

The Examiner goes on to argue that "Colson further teaches alternatively that the 'particular content type' may be determined by querying the client." (Advisory Action, page 2). Again, this is irrelevant to the instant claims, at least because "querying the client" cannot be reasonably construed as a request sent from the client that includes an indicator that a multipart response is desired for the client. Further, the "query" is made after a request for content has been sent and the response has been received, but before the response is rendered (e.g., for "locating the selected one of the selected content renderers" which occurs after "a response document [is] returned," Colson, col. 4, lines 13-16 and 48-49). Again, Colson makes a clear distinction between this "query" and a content request.

Finally, the Examiner concludes that "[t]herefore, the functionality remains the same in that content registration message pertains to obtaining content." This is does not meet the legal standards of 35 U.S.C. §102. The legal standard for *prima facie* anticipation under §102 is not that the "functionality" is the same, as apparently judged by the end result (and Appellant also disagrees that either the "functionality" or end result of Colson is the same as the claimed invention). The correct legal standard is that the reference must teach every element of the claimed invention, and in the same detail as set forth in the claims. It is

unreasonable to interpret the queries or registration messages of Colson as a content requests, and thus the rejection does not meet the legal standards set forth in 35 USC § 102.

Neither registration message nor queries in Colson are used to request content by a client, either expressly or inherently. The registration message only updates a stored registry of content-type-to-content-renderer mappings (Colson, col. 4, lines 33-35), and Colson explicitly describes registration as occurring independently of content request (e.g., Colson FIG. 5). Colson's disclosed queries determine a compatible device after a request and response have already been communicated. Therefore, the rejections are clearly erroneous in relying on Colson's registration messages or queries to show a client content request having an indicator that a multipart response is desired for the client. For at least this reason, the anticipation rejection of Claims 1, 6, 11, and 13-15 cannot be maintained, and reversal of the rejection is respectfully solicited.

2. The rejection of Claims 1, 6, 14, and 15 under 35 U.S.C. §102(e) is improper because Colson *et al* does not expressly or inherently teach a single part response that includes an indicator to signal that a subsequent multipart response that is related to the single part response will be sent to the client.

Appellants have also argued that Colson fails to teach, as set forth in Claim 1, a single part response sent to the client in response to the request, where it was indicated in the request that a multipart response was desired. The single part response includes an indicator to signal that a subsequent multipart response that is related to the single part response will be sent to the client. Claim 6 describes a first response including a multipart response capability, and second multipart response includes a format that is indicative of the multipart response capability of the first response. Claims 14 and 15 further describe determining a multipart response expectation in a content request, generating a single part response in response the expectation, and sending a multipart response to the client after a second content request is received, the multipart response being related to the single part response. Appellants submit that Colson fails to show a single part response with an indicator to signal that a subsequent multipart response will be sent as set forth in Claim 1,

and further fails to show first single part response and related second multipart response as set forth in Claims 6, 14, and 15.

The Office Action relies on column 2, lines 4-23 of Colson to show the single and multipart responses as set forth in Claims 1, 6, 14, and 15; e.g., "The first part is a header describing the returned document, and the second part is the document itself;" "When the response includes multiple documents or document parts having multiple content types, then the HTTP header preferably ... indicate[s] that a multipart message with data in more than one [part] is being sent." (Office Action, pages 9-10). Appellant submits that this excerpt of Colson is not describing, either expressly or inherently, a first single part response and a second multipart response that is related to the first response.

The excerpts of Colson indicated above show, not two responses, but a single HTTP response that is well known in the art to include a header and body. Colson describes a Web server that "returns a requested document to the browser as a two-part transmission," (Colson, col. 2, lines 4-7) but this so-called "two-part transmission" is actually the header and document that make up a single response. A standard Web response contains a header and document, all included as part of the same block of data returned in response to a single HTTP request. Therefore the header described in Colson cannot by itself be relied upon to show a first single part response, because it is described as being returned with the document, and both the header and document, whether the response is single- or multi-part, are all still part of a single HTTP response.

In response to these arguments, the Examiner asserts in the Advisory Action that "Colson clearly and explicitly teach a 'two-part transmission,' wherein the first part is a header and the second part is the document(s), and wherein the header comprises the indicator and the document(s) may be in multiple parts." (Advisory Action, p. 2). Again, this fails to recognize that the so-called "two-part transmission" in Colson is clearly describing a single response, and not two separate responses.

It is unreasonable to apply such a broad interpretation of the word "transmission" to the Appellant's claims when such a teaching is clearly contrary to what is known in the art and explicitly shown in Appellants disclosure. For example, FIG. 3 of the instant

Application unambiguously show two separate requests 202, 216 that result in respective related single- and multi-part responses 210, 220. It is unreasonable to suggest that one of ordinary skill in the art would interpret one of these responses 210, 220 include only a header and the other includes on a document described in the header. Such an interpretation would be inconsistent with the operation of the exemplary HTTP protocol, and is further inconsistent with the description in Colson of the "two-part transmission" being a single document (Colson, col. 2, lines 6-7). Thus this is an additional reason that there has been a failure to establish a *prima facie* case of anticipation of Claims 1, 6, 14, and 15 based on Colson, and a reversal of the rejection is respectfully requested.

3. The rejection of Claims 2-5, 7-10, and 12 under 35 U.S.C. §102(e) is improper because these claims depend from improperly rejected independent claims.

Claims 2-5 are dependent from independent Claim 1; Claims 7-10 depend from independent Claim 6; and Claim 12 depends from independent Claim 11. These dependent claims were also rejected under 35 U.S.C. §102(a) as being anticipated by Colson. While Appellant has not acquiesced with the particular rejections to these dependent claims, these rejections are moot in view of the remarks made in connection with independent Claims 1, 6, and 11. These dependent claims include all of the limitations of respective independent Claims 1, 6, and 11 and any intervening claims, and recite additional features which further distinguish these claims from the cited reference. Therefore, Colson also fails to anticipate dependent Claims 2-5, 7-10, and 12 and reversal of these rejections is respectfully requested.

VIII. CONCLUSION

In view of the above, Appellants respectfully submit that the claimed invention is patentable over the cited reference and that Claims 1-15 should be allowed. Appellant respectfully requests reversal of the rejections as applied to the appealed claims and allowance of the entire application.

Authorization to charge the undersigned's deposit account is provided on the cover page of this brief.

Respectfully submitted,

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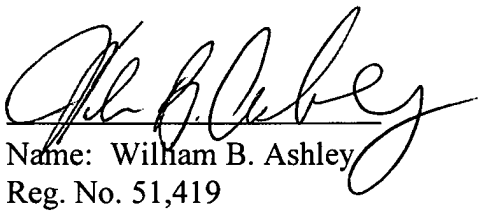

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IX. CLAIMS APPENDIX:

1. A communication system optimized for multipart responses, the communication system comprising:

a client adapted to request content from the communication system, the request for content including an indicator that a multipart response is desired for the client;

a proxy coupled to receive the request for content and adapted to access the communication system for the requested content; and

a server coupled to the proxy to provide the requested content, wherein the proxy is adapted to provide a single part response to the client, the single part response including an indicator to signal that a subsequent multipart response that is related to the single part response will be sent to the client.

2. The communication system according to Claim 1, wherein the request for content comprises a HyperText Transfer Protocol (HTTP) request having a request header.

3. The communication system according to Claim 2, wherein the request header includes the indicator that a multipart response is desired.

4. The communication system according to Claim 1, wherein the single part response comprises a HyperText Transfer Protocol (HTTP) response having a response header.

5. The communication system according to Claim 4, wherein the response header includes the indicator that a multipart response will be subsequently transmitted.

6. A method for multipart response optimization, comprising:

generating a first request for content, the first request including a multipart response expectation indicator that indicates a client generating the first request is capable of receiving a response with multiple parts of content;

generating a first response to the first request for content, the first response including a multipart response capability;

generating a second request for content by the requestor; and

generating a second response to the second request for content, wherein the second response includes a format that is indicative of the multipart response capability indicator and includes particular multiple parts of content for the client associated with the second request for content.

7. The method according to Claim 6, wherein a lack of multipart response capability is signalled by an absence of a multipart response capability indicator.

8. The method according to Claim 7, wherein the second request for content is one of a plurality of parallel requests for single part content.

9. The method according to Claim 6, wherein support for the multipart response capability is signalled by a multipart response capability indicator.

10. The method according to Claim 9, wherein the second request for content is a single request for multipart content.

11 A mobile terminal wirelessly coupled to a network which includes a proxy coupled to the network, the mobile terminal comprising:

a memory capable of storing at least a multipart header module;

a processor coupled to the memory and configured by the multipart header module to generate content requests having a multipart response expectation indicator that indicates the mobile terminal is capable of receiving a response with multiple parts of content; and

a transceiver configured to facilitate a content response exchange with the proxy, wherein the multipart header module is further configured to search the content response for a multipart capability indicator and receive content that includes particular multiple parts of

content in response to the existence of the multipart capability indicator in the content response.

12. The mobile terminal according to Claim 11, wherein existence of the multipart capability indicator in the content response precludes generation of parallel content requests from the processor.

13. A computer-readable storage medium having instructions stored thereon which are executable by a mobile terminal for requesting optimized multipart response handling in a network by performing steps comprising:

supplying a multipart expectation indicator in a content request that indicates the mobile terminal is capable of receiving a response with multiple parts of content;

receiving a content response to the content request;

examining the content response for a multipart capability indication;

precluding transmission of parallel content requests when the multipart capability indication exists within the content response; and

receiving content that includes particular multiple parts of content in response to the existence of the multipart capability indicator.

14. A proxy coupled to a network to detect multipart content requests, the proxy comprising:

means for receiving a first content request;

means for determining the existence of a multipart response expectation indicator in the first content request that indicates a client sending the first content request is capable of receiving a response with multiple parts of content;

means for generating a single part response in response to the existence of the multipart response expectation indicator in the first content request; and

means for sending a multipart response to the client after a second content request is received, the multipart response being related to the single part response.

15. A computer-readable storage medium having instructions stored thereon which are executable by a proxy by performing steps comprising:

receiving a first content request from a client;

determining the existence of a multipart response expectation indicator in the first content request that indicates the client is capable of receiving a response with multiple parts of content;

generating a single part response in response to the existence of the multipart response expectation indicator in the first content request; and

sending a multipart response to the client after a second content request is received, the multipart response being related to the single part response.

X. EVIDENCE APPENDIX

None.

XI. RELATED PROCEEDINGS APPENDIX

None.